it would be that of the House Report accompanying H.R. 4850. The House Report's language is clear: the Commission may only exercise jurisdiction under limited circumstances.[99/]

Finally, CFA cites House and Senate floor debate on the issue of jurisdiction to regulate rates. For example, CFA discusses the debate surrounding the Oxley Amendment, which would have granted all regulatory authority to local franchising authorities.[100/] CFA and NATOA are correct in that the concerns expressed in the floor debates cited are assuaged by Section 623(b)'s mandate. However, any suggestion that comments in the floor debate should be used not only to reinterpret but also to redefine the plain language of Sections 623(b) and 623(a)(6) is contrary to the rules of statutory construction.

Congress could have explicitly granted the Commission authority to regulate basic rates of all cable systems.[101/] Instead, Congress enumerated specific circumstances under which the Commission could exercise regulatory

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99/ *See* House Report at 81.

100/ Comments of CFA at 125-26 & n.121.

101/ Indeed the explicit grant of authority contained in S. 12 was deleted in favor of the provisions adopted. The Senate version granted the Commission authority to regulate rates that was transferrable to local franchising authorities upon written request and review by the Commission of "the State and local laws and regulations governing the regulation of rates of cable systems . . . ." S. 12, § 623(b)(2)(A).

jurisdiction.[102/] Section 623(a)(6) narrowly defines the scope of the Commission's jurisdiction.[103/]

Nor does Section 623(b) grant the Commission jurisdiction to regulate basic rates; it merely authorizes the Commission to establish the regulatory environment that will govern the activities of franchise authorities. The regulations developed can only be used by the Commission pursuant to the limited grant of jurisdiction described in Section 623(a)(6).[104/] The functions of Sections 623(b) and 623(a)(6) are distinct. One requires the Commission to adopt implementing regulations; the other defines when the Commission can directly supervise, control, and review the activities of cable operators.

Finally, Congress did not intend that the Commission be charged with exercising jurisdiction over every cable operator that was not regulated by a

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102/ Several commenters to agree with this interpretation of the plain statutory languages. *See, e.g.*, Comments of New England Cable Television Association, Inc. ("New England Cable") at 7-11, Comments of Caribbean Communications Corp. d/b/a St. Thomas-St. John Cable TV ("Caribbean Communications") at 3-4.

103/ "If the Commission disapproves a franchising authority's certification . . . or revokes such authority's jurisdiction . . ., the Commission shall exercise the franchising authority's regulatory jurisdiction [over basic service rates]." 47 U.S.C. § 543(a)(6) (emphasis added).

The 1992 Act's legislative history supports this interpretation. The House Report notes that "[Section 623(a)(6)] specifies the scope of the FCC's authority to regulate basic cable rates in lieu of a franchising authority. The FCC may exercise regulatory authority with respect to basic cable rates only in those instances" where certification is revoked or denied. House Report at 81 (emphasis added).

104/ *See* 47 U.S.C. §§ 543(a)(2)(A), (a)(6).

franchising authority. This absurd result would impose unwieldy administrative burdens on the Commission and seriously overtax its already limited resources. The day-to-day oversight that would normally reside with a local franchising authority does not rest with the Commission unless the conditions described in Section 623(a)(6) are met.

B. The Commission Must Require Individual Certifications for Each Local Regulatory Authority.

In its comments, NYSCCT asserts that the Commission should permit state cable regulatory agencies to file blanket certification requests for all franchising authorities in their states.[105/] This proposal is contrary to the requirements of the 1992 Act, and must be rejected.

The 1992 Act clearly contemplates individual certifications for each local regulatory authority. Certification does not merely encompass legal authority. It also includes such locality-specific questions as whether the regulator has sufficient personnel to administer rate regulation and whether it will adopt and administer regulations that are consistent with the Commission's own regulations.[106/] A state body like the NYSCCT is in no position to make such a certification on behalf of, in the case of New York State, nearly 1,400 separate franchising authorities, because it has no way of knowing whether each franchising authority actually meets the requirements. While the NYSCCT

105/ Comments of NYSCCT at 17-18.

106/ 47 U.S.C. § 543(a)(3)

asserts that a state agency can assure that the requirements of the certification provisions are met,[107] the truth is that any blanket certification request will include franchising authorities that either cannot or do not want to regulate their local cable systems' rates.[108] In this way, a blanket certification would differ significantly from joint certification, which would require all of the cooperating franchising authorities to affirmatively certify that their joint rate regulation will comply with all of the requirements of Section 623(a)(3).[109] This difference between joint certifications and NYSCCT's proposed blanket certifications illustrates not only why the proposal is contrary to the express language, but also the intentions of the 1992 Act.

C. Franchising Authorities May Regulate Basic Rates Only if They Have the Legal Authority to Do So Under State and Local Law.

Several commenters contend that a franchising authority's legal authority may be based on federal, state or local law.[110] This argument does not

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107/ Comments of NYSCCT at 18.

108/ NYSCCT's own comments point out this problem. As NYSCCT explains, some franchising authorities may not want the basic rate regulation rules to affect their local cable systems, perhaps in order to encourage retention of a "fat" basic tier. *Id.* at 8. If blanket certification by state authorities were permitted, local franchising authorities would lose their ability to exempt their cable operators from basic rate regulation.

109/ *See* Comments of NCTA at 69-70.

110/ Comments of NATOA at 27-30, Comments of Political Subdivisions of Minnesota ("Minnesota Municipalities") at 8-10, Comments of Dade County at 6, Comments of Municipalities at 7-8.

comport with the 1992 Act or its legislative history.

The 1992 Act provides that franchising authorities must have the legal authority to regulate basic cable rates prior to certification. It is axiomatic that the legal authority to regulate rates cannot be derived from the 1992 Act itself, but must be derived from an independent source. The 1992 Act cannot independently provide franchising authorities regulatory power independent of state law,[111/] as some commenters have argued.

D. Revocation Proceedings.

NATOA argues that certification should be revoked only if an authority's regulations are substantially inconsistent with the Commission's rules and regulations, or are an obstacle to the execution of Congress's objectives.[112/] This standard is too high and is inconsistent with the statute. The 1992 Act indicates that if "State and local laws and regulations are not in conformance with the regulations prescribed by the Commission . . . the Commission shall revoke the jurisdiction of such authority."[113/] Thus, if franchising authority regulations are not in conformance with the 1992 Act, certification should be revoked. Lesser remedies are available if the violations are reparable.

To ensure conformity with the statute, a standard set of rate regulations should be established that will provide consistency and uniformity in

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111/ *See* Comments of New England Cable at 11-15.

112/ Comments of NATOA at 35-36.

113/ 47 U.S.C. § 543(a)(5).

the regulation of basic cable rates. A franchising authority that fails to implement regulations that are consistent with Commission certification procedures should not be permitted to regulate rates until its regulations are brought into conformity with the statute.

The Commission also should ensure that interested parties be properly notified of revocation proceedings. CVI agrees with NATOA that cable operators subject to the franchising authority's regulations as well as other interested parties should be provided an opportunity to be heard at such proceedings.[114/]

E. Other Procedural Issues.

1. The Time Frame For Review of Basic Rates Should Be Short.

NATOA proposes that the initial review of basic rates should be conducted within a 120 day period. Additionally, it proposes that if the initial review proves inconclusive, it conduct a further review of rates beyond the 120 day period. This proposal would require an operator to wait far too long for a determination of the acceptability of its rate structure. In particular, if a rate increase is due to costs outside the operator's control, the operator should be able to recoup the costs as quickly as possible, especially if they fall within the benchmark set by the Commission. Regulatory lag, such as that proposed by NATOA, would substantially impair an operator's ability to provide service and

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114/ Comments of NATOA at 34.

could prove confiscatory. Only above-benchmark rates need be justified by the operator; increases that fall within the benchmark should be permitted to take effect within 30 days.[115/]

2. Franchising Authorities Cannot Set Basic Service Rates.

Some parties suggest that franchising authorities can set rates.[116/] There is no authority for this proposition. A franchising authority only has the power to determine whether a rate is reasonable. The Commission is charged with setting the criteria by which franchising authorities will be able to make this determination. The 1992 Act does not, however, permit franchising authorities to set basic service rates. Rate setting is a prerogative vested solely in the cable operator.[117/] Moreover, a rate set by a franchising authority for basic service could impinge on an operator's prerogative to set rates for programming services. In addition, a franchising authority that also operates a competing system that has not yet achieved the 50 percent of households threshold could easily abuse such a power. Armed with the ability to set rates of the cable operator, the franchising authority would be empowered to manipulate the relationship between rates for the two operations to advantage themselves competitively. The 1992 Act

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115/ Comments of Blade at 11-12.

116/ Comments of NATOA at 64-66, Comments of CFA at 156, Comments of Attorney General, State of Connecticut at 6.

117/ *See* Comments of Community Antenna Television Association ("CATA") at 20, Comments of Caribbean Communications at 19-21.

specifically vests in the Commission jurisdiction to regulate programming services, and any actions by a franchising authority that hinder this mandate are contrary to the 1992 Act.

F. Subscriber Bill Itemization.

Some parties, otherwise intent upon maximizing what they see as the "consumer protection" aspects of the 1992 Act, assert that the Commission should minimize the effects of the provisions of the 1992 Act that permit cable operators to itemize the charges assessed on them by franchising authorities.[118/] The Commission should reject this effort to hide the costs imposed by local governments from consumers.

The NYSCCT relies on ambiguous language in the House Report to support its position, claiming that the House did not intend for cable bills to actually itemize the costs of franchise requirements and taxes.[119/] As the Conference Report explains, however, the House language was not adopted. Instead, the Senate provision, which was added as a floor amendment, prevailed

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118/ *See, e.g.,* Comments of NYSCCT at 28-30.

119/ *Id.* at 28. NYSCCT says that the House Report shows that there was no intent to permit separate listings of franchise fees and other costs on the monthly bill. The language cited by NYSCCT also could be read merely to say that the cable operator is not entitled to bill those items separately, but must provide a total bill that includes all of the itemized charges. House Report at 86. NYSCCT also suggests that itemization of franchise fees could lead to inaccurate calculation of the amount actually owed because the fees themselves would not be included in gross revenues. Comments of NYSCCT at 29. This claim has nothing to do with whether the fees should be itemize; the franchising authority presumably has the ability to extract the correct fee from the cable operator regardless of what subscriber bills say.

in conference.[120/] The House Report would not, therefore, be controlling even if it were clear on its face.

The legislative history of this provision in the Senate, however, shows a much different intent than that suggested by NYSCCT. When introducing the bill itemization provision, Senator Lott explained its purpose quite directly:

> The fact is sometimes the rates have gone up because of hidden, unidentified increases in fees or taxes which the cable has to pay and the cable company passes on to consumers, and it is not explained. So I will have an amendment that will at least say the cable companies can identify on the bills those fees and taxes charged that drive up the rates. At least let the people know. Let us at least have openness in billing.[121/]

Senator Lott went on to say that the amendment would "give the cable companies an opportunity to itemize these so-called hidden costs, to explain to the people what is involved in the charges so they will know it is not just the cable company jacking up the prices."[122/]

The intent of the amendment could not be clearer. Unlike NYSCCT's interpretation of the House Report, Senator Lott's floor statement also is consistent with the plain language of the statutory provision. Itemization is just that: listing all of elements that go into the total charge. It is not a separate "legend" of what goes into the charges shown on the bill. If the Commission has

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120/ Conference Report at 84.

121/ 138 Cong. Rec. S569 (daily ed., Jan. 29, 1992) (remarks of Senator Lott).

122/ *Id.*

any need for guidance on this issue, it should follow standard billing practices, like those used by telephone companies, which have separate line items for all charges imposed by other entities. In fact, the practice of itemizing taxes and similar assessments, on bills for almost every commercial transaction, is so commonplace that it is difficult to believe that any party has objected to permitting cable operators following the same procedure.

G. Confidential Information of the Cable Operator Should Not Be Disclosed to the Franchising Authority.

NATOA argues that the Commission should clarify the right of a franchising authority to obtain any information necessary to make a rate decision.[123/] Similarly, CFA proposes that the Commission permit "extensive data disclosure to all participants" in rate disputes.[124/] Citing Section 623(g), NATOA contends that franchising authorities should have access to any relevant financial information, "proprietary information concerning programming costs or other matters that a franchising authority reasonably believes is needed to make a rate determination."[125/] However, Section 623(g) requires the Commission to regulate the disclosure of financial information required to make rate determinations. There is no authority which permits a franchising authority to make determinations about what information, proprietary or otherwise, must be

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123/ Comments of NATOA at 61-62.

124/ Comments of CFA at 113.

125/ Comments of NATOA at 62 (emphasis added).

disclosed. In fact, the Commission currently protects certain proprietary information from disclosure.[126/]

CVI and other parties believe that franchising authorities should be entitled to only that material the Commission finds is relevant to rate decisions, and then only if the franchising authority has in place regulations to protect such information from public disclosure. In particular, these parties agree with CVI that under no circumstances should the Commission require that cost information be disclosed.[127/] The Commission need only look to its current rules and case law regarding the protection of confidential proprietary information. Specifically, the Commission has previously acknowledged that disclosure of cost data may substantially harm the party that submitted the information.[128/] Therefore, cost data or other information of a proprietary nature should be protected from disclosure.

126/ *See, e.g.*, 47 C.F.R. § 0.457(d) - .459. CVI discussed these provisions in its initial comments. *See* Comments of CVI at 76-7, 78-81.

127/ *See* Comments of CVI at 78-81, Comments of NCTA at 82-83, Comments of Adelphia at 152-55, and Comments of Caribbean Communication at 25.

128/ "[Cost data] have been recognized by the courts as a category of information with considerable competitive implications . . . . It is 'virtually axiomatic' that disclosure of detailed financial data showing costs and revenues" would cause substantial competitive harm to the party that submitted the information. *Policies and Rules Concerning Operator Service Providers*, 6 FCC Rcd 5058, 5060 (1991), *citing Nat'l Parks and Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976).

VIII. REGULATION OF PROGRAMMING SERVICES

A. Regulation of Rates.

NATOA argues that franchising authorities should have significant roles in enforcing rules for cable programming services.[129/] NATOA is overreaching. The regulatory scheme that Congress envisioned provided absolutely no role for franchising authorities to regulate the rates for cable programming services other than the right to file a complaint with the Commission. The plain language of the 1992 Act and its legislative history support the interpretation that only the Commission is empowered to regulate cable programming rates. For example, Section 623(c) provides that the Commission shall establish "the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable . . . ."[130/] Similarly, the House Report notes that Section 623(c)(1)(C) vests the Commission with the power to determine whether rates are acceptable.[131/]

129/ Comments of NATOA at 72-73.

130/ 47 U.S.C. § 543(c)(1)(C)

131/ *See* House Report at 87-88.

B. Complaint Procedures Should be Simple But Should Require That the Complainant Provide Sufficient Evidence Rates Are Unreasonable.

CVI believes that complaint procedures should not be unduly burdensome. Drawn-out complaint procedures such as those NATOA proposes, with review by a franchising authority and the Commission over a four to seven month period, are unacceptable. Other commenters also propose formal, delayed rate hearings by the franchising authority.[132/] CVI urges the Commission to adopt simple complaint procedures and not unduly burden cable operators with having to reply to every allegation.[133/] Operators should not be required to respond to all complaints filed with the Commission, but rather only those that meet a minimum showing that rates or rate increases are above benchmark standards. Then the staff may request further information from the operator to make a determination.

C. Fines and Refunds to Subscribers.

Several commenters address the issue of refunds to subscribers. Some argue that both fines and refunds are appropriate,[134/] and some argue that the Commission should adopt the more burdensome approach of refunding monies to only those subscribers that paid the offending rate.[135/]

132/ Comments of Mayor and City Council of Baltimore at 10-12, Comments of City of Atlanta at 1-2.

133/ *See* Comments of Caribbean Communication at 17, Comments of CATA at 30-31.

134/ *See, e.g.,* Comments of Attorneys General at 12.

135/ *See, e.g.,* Comments of CFA at 145-66.

The Commission should not adopt a subscriber-specific refund requirement. Maintaining the records necessary to track who is entitled to a refund would be difficult, especially in view of the relatively high rates of churn that often plague the cable industry. In addition, rate refunds will not be commonplace, because only a minority of systems may now be charging unreasonably high rates.

The number of refund orders also will diminish over time because the refund mechanism itself will have a deterrent effect. Once the Commission's procedures are in place there will likely be even fewer instances in which refunds are ordered. Thus the significance of Commission refund orders will be their impact on future behavior and the return of subscriber overpayments is incidental to the effect.

Finally, the 1992 Act does not specify to whom refunds should be made, and thus the most generic interpretation should be adopted. Refunds should be made to all subscribers within the same class to which the refund is being made. Otherwise the cable operator would be subjected to extensive administrative burdens. Fines should be imposed on operators only when they fail to comply with a Commission determination.[136/]

136/ *See* Comments of Attorneys General at 12-13.

IX. OTHER REGULATIONS

A. Uniform Rate Provision.

1. Uniformity Should be Implemented Over a Franchise Area, Not a System Area.

Several commenters have interpreted "geographic area" as "system-wide area."[137/] Such an interpretation is contrary to Congressional intent. The Senate Report provides that "cable operators must offer uniform rates throughout the geographic area in which they provide service. This provision is intended to prevent cable operators from implementing different rate structures in different parts of one cable franchise. This provision is also intended to prevent cable operators from dropping the rates in one portion of a franchise area to undercut a competitor temporarily."[138/] Senate debate on the uniform rate provision also notes that a uniform rate structure would "encourage competition . . . by forbidding a cable system from offering differing prices within a franchise area . . . ."[139/] Thus, the legislative history of the 1992 Act supports the franchise area definition of geographic area.

137/ Comments of Electric Plant Board of the City of Glasgow, Kentucky ("Glasgow Electric Plant Board") at 4-6, Comments of Minnesota Municipalities at 23.

138/ Senate Report at 76 (emphasis added).

139/ 138 Cong. Rec. S14,248 (daily ed. Sept. 21, 1992) (Statement of Sen. Gorton) (emphasis added).

Moreover, if geographic area is defined as the system area, the necessity to offer uniform rates would require that cable operators cross-subsidize the rates of certain subscribers. Operators who serve multiple service areas will encounter different service requirements. For example, the requirement to provide sophisticated origination facilities or elaborate access facilities in one franchise area or to meet more burdensome customer service obligations imposed by a franchising authority under Section 632(c) will entail higher subscriber fees in that area.[140/]

2. A Cable Operator May Charge Different Rates for Different Categories of Service.

Several commenters contend that the uniform rate provision requires all subscribers in a geographic area to be charged the same rate, with the operator absorbing the costs, if necessary.[141/] This interpretation is unreasonable in light of the discrimination provision. Congress did not intend for all subscribers in a franchise area to be charged the same low rate that would be charged to disadvantaged or senior citizen subscribers. The discrimination provision indicates that a cable operator may not be prevented from "offering reasonable discounts to senior citizens or other disadvantaged group

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140/ 47 U.S.C. § 552(c). Moreover, as the Commission notes, "different franchises within a system could have differing costs . . . . [C]osts may vary due to differing franchise fees, density of homes passed, the age of the facilities, or many other factors." *Notice* at ¶ 115.

141/ *See, e.g.,* Comments of Salisbury at 28-29; Comments of Williamston, Nor Carolina at 28-29.

discounts . . . ."[142/] The term "discount" implies that a standard rate must first be set in order for an operator to offer a reduced price. There is no prohibition against providing multiple categories of service, as long as rates are the same for all subscribers within a category.[143/] Thus, a cable operator may, negotiate a discounted rate for subscribers in MDUs, larger institutional buildings such hospitals, or planned developments without violating the uniform pricing provision.[144/]

3. A Cable Operator May Offer Competitive Prices If Another Video Provider Serves Any Sector of the Cable Operator's Franchise Area.

The City of Glasgow contends that the uniform rate provision prevents operators from reducing rates to compete with localized multichannel video programming distributors.[145/] This interpretation would threaten the financial viability of cable operators and reduce the levels of service offered by operators.

CVI agrees with commenters Time Warner and Adelphia, who interpret the uniform rate provision to allow cable operators to set prices at levels to compete with multichannel video programming distributors that serve

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142/ 47 U.S.C. § 543(e).

143/ Several commenters agree that the 1992 Act does not preclude the establishment of reasonable categories of service with separate rates, terms and conditions of service. *See, e.g.,* Comments of TCI at 60-62, Comments of Nashoba at 116-18, 121-26.

144/ *See* Comments of Cole, Raywid & Braverman ("Cole, Raywid") at 45-48.

145/ Comments of Glasgow Electric Plant Board at 3-6.

only isolated sectors of a franchise area.[146/] As they explain, a competing multichannel video programming distributor that, for instance, overbuilds the most densely penetrated portion of the franchise area would have a significant advantage over the cable operator that provides service to the entire franchise area unless the existing operator can compete directly by lowering its prices in the affected area. Otherwise, a cable operator in such a situation is defenseless: if it maintains rates in that sector, it will lose numerous subscribers; if it reduces rates to compete with the multichannel video programming distributor, it will be forced to reduce rates in the entire franchise area greatly reducing revenues. Either way, the operator's financial stability and quality of service will suffer.[147/]

B. Additional Regulations To Prohibit Negative Option Billing or Evasions Are Not Necessary.

NATOA proposes that franchising authorities should be permitted to institute proceedings to review actions by cable operators that may constitute an attempt to evade the regulation of basic rates, and to allow complaints to be filed that challenge allegedly evasive action by cable operators.[148/] NATOA also recommends that an operator have the burden of demonstrating by a

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146/ *See* Comments of CVI at 83-85, Comments of Time Warner at 75-78, Comments of Adelphia at 130-36.

147/ Time Warner and Adelphia limit their concern to competitors not subject to franchise requirements, but the principle is the same for any competitor that targets the most lucrative section of a franchise area. If the existing cable operator is not permitted to compete directly on price, it will suffer significant losses, with the resultant impact on quality of service to subscribers.

148/ Comments of NATOA at 84.

preponderance of the evidence that its action furthers a legitimate business purpose.[149/] Similarly, some commenters support strict negative option billing restrictions and evasion of rate regulation restrictions.[150/]

These proposed procedures are unnecessary, impermissibly apportion the burden of proof and establish an inappropriate standard for proving evasive action.[151/] Complaint procedures are sufficient to resolve rate disputes. Because the Commission will be required to resolve complaints, a requirement to conduct proceedings at the local level will result in additional and unnecessary burdens on cable operators without any corresponding benefit. A franchising authority should not be permitted to engage an operator in a hearing and then file a complaint with the Commission.

NATOA's suggestion of a standard to identify an evasive action is inappropriate. NATOA would have an operator demonstrate that its action was "predominately for a legitimate business purpose unrelated to any evasive effect, and not done solely on the grounds of enhancing revenue."[152/] A complaint alleging evasive rates will, of necessity, be required to be decided on an ad hoc basis. Should rate evasion questions arise, the franchising authority and the cable operator will be able to discuss outstanding issues. If negotiations cannot resolve

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149/ *Id.*

150/ Comments of Grand Rapids at 40-41.

151/ *See* Comments of InterMedia Partners at 36-37.

152/ Comments of NATOA at 84.

the dispute, the Commission's complaint process is available. Therefore the Commission need not adopt additional safeguards to protect against negative option billing or evasions of rate regulation. The retiering restrictions that accompany rate regulation will deal with these problems appropriately.

X. THE COMMISSION MUST PROVIDE FOR A REASONABLE TRANSITION PERIOD AFTER THE ADOPTION OF THE RULES IN THIS PROCEEDING

Even a cursory review of the comments in this proceeding demonstrates that, whatever rules the Commission adopts to implement the rate requirements of the 1992 Act, cable operators, franchising authorities and the Commission itself will need a transition period to adjust to the new regime. As NCTA and other commenters describe, cable operators in particular will need time to adjust their operations to conform to the Commission's rules.[153/]

CVI already has explained its belief that a transition period is necessary, and the comments of other parties reinforce that belief.[154/] Some parties have argued, for instance, that the Commission's rate rules should not be effective until January 1, 1994.[155/] These parties and others emphasize that a transition period also will reduce administrative burdens by eliminating

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153/ *See, e.g.,* Comments of NCTA at 85-86.

154/ Comments of CVI at 9-11. In fact, a transition period is necessary to assure compliance with the Administrative Procedure Act. *Id.* at 10, n.9, *citing* 5 U.S.C. § 551 *et seq.*

155/ *See* Comments of Cole, Raywid at 62, Comments of Adelphia at 157.

complaints about rates that are later changed to conform to the rules.[156/] As these parties point out, it would be a waste of resources for all concerned to begin local rate proceedings or to process complaints about rates that are in the process of being realigned in accordance with the guidance the Commission will provide.

In deciding upon how the transition to the new regime should be accomplished, the Commission should be flexible. Some rules will take longer to bring into effect than others, so the Commission should not set a single effective date for all provisions of the new rules. For instance, it is likely to take cable operators longer to comply with new equipment rules than it will take franchising authorities to begin requesting certification. As CVI suggested in its comments, the Commission should take these factors into account when setting the effective dates for the various provisions of the new rules.[157/]

XI. CONCLUSION

The Commission is obligated to adopt rules that are consistent with Congress' intent in adopting the 1992 Act. Such rules would protect consumers against the minority of cable operators that have abused their positions while preserving the ability of all cable operators to respond to the needs of their subscribers and to the marketplace. In its comments and these reply comments, CVI has outlined how the Commission can achieve those goals. For all of those

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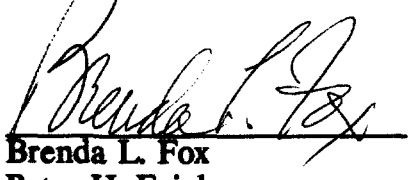
156/ *See* Comments of CVI at 10, Comments of Adelphia at 155-57.

157/ *See* Comments of CVI at 10-11.

reasons, the Commission should adopt rules and policies in accordance with the proposals contained herein.

Respectfully submitted,

CABLEVISION INDUSTRIES CORPORATION

By: 

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